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SUBJECT: TRIPARTITE APPROACH REVEALS LEGAL AND LOGISTICAL CONCERNS
OF GOM PROSECUTING PIRATES

SUMMARY

¶1. On July 20, Charge d'Affaires Virginia Blaser convened a meeting with British High Commissioner (BHC), Dr. John Murton, and the visiting Foreign and Commonwealth Office (FCO) Legal Adviser, Katherine Shepherd, along with French Ambassador Jacques Maillard and his Minister Counselor, to discuss jointly approaching GOM on piracy issues. This meeting resulted in CDA and the French Minister Counselor accompanying BHC and the FCO Legal Adviser to a previously scheduled July 22 discussion with GOM officials to explore the political will and legal and logistical capacities of Mauritius to capture pirates on the high seas. The meeting revealed that Mauritius can currently prosecute pirates in its maritime zone (up to 200 nautical miles from its shore), but a change of law or ministerial declaration would need to be issued to allow for prosecution of pirates captured on the high seas. While other logistical concerns loom, dialogue indicated that GOM is willing to explore how it can better contribute to regional anti-piracy efforts.

BACKGROUND

¶2. On July 22, Charge d'Affaires Virginia Blaser attended a meeting to explore the legal and logistical capacities and concerns of Mauritius in regards to capturing, prosecuting, and detaining pirates caught in the high seas. The meeting, chaired by Ms. Doreen Fong Weng-Poorun, Permanent Secretary of the Prime Minister's Office, was held at the request of British High Commissioner, Dr. John Murton, to capitalize on the in-country presence of Katharine Shepherd, Legal Adviser UK Foreign and Commonwealth Office. Post became involved when CDA invited Murton, Shepherd, and Jacques Maillard, French Ambassador, to the Embassy on July 20 to discuss a joint approach to GOM on piracy issues.

¶3. In addition to, Fong Weng-Poorun, Murton, Shepherd, and CDA other attendees at the July 22 piracy meeting included: Mr. Jean Blattes, Minister Counsellor of the French Embassy; the Commissioner of Police; the Head of the National Coast Guard; the head of the National Security Service; and representatives of the Ministry of Foreign Affairs, Regional Integration and International Trade, Ministry of Shipping, Prime Minister's Office, and the State Law Office.

LOCAL LEGISLATION: COURTS HAVE JURISDICTION WITHIN MAURITIUS EEZ

¶4. Mrs. Aruna Narain, Assistant Solicitor General of the State Law Office, explained that according to the Merchant Shipping Act (MSA) 2007, the Courts of Mauritius have jurisdiction to prosecute an act of piracy as long as it falls within Mauritius' EEZ. Commander Vishal Kanwar of the National Coast Guard (NCG) then offered that both the NCG and the Mauritius Police Force have the right to arrest an alleged pirate or offender, so long as the arrest is within Mauritius' maritime zone-- the area comprising Mauritius' territorial waters and its EEZ. Narain added that, per section 218 of MSA 2007, beyond the 200 nautical miles that makes up Mauritius' maritime zone, local courts can only prosecute piracy, if the act of piracy involved a Mauritian nexus-- either a Mauritian citizen or Mauritian vessel.

¶5. Katherine Shepherd, UK FCO legal advisor, noted that being able to prosecute maritime offenses up to 200 nautical miles from shore was a large area that differed vastly from the UK limit of 12 nautical miles, but asked what needed to happen to make local legislation compliant with condemning piracy as an international crime subject to universal jurisdiction. According to Narain, the Government of Mauritius (GOM) would need to amend the law to grant local courts jurisdiction on the high seas and be compliant with international law (Note: Parliament will be in recess as of August and not resume until October, so any new law would not be introduced until after October. End Note.). If deemed necessary by GOM, Narain did note that it may be possible for the Minister of Public Infrastructure, Land Transport and Shipping, Anil Bachoo, to make a regulation, as part of a national policy decision, that would simply enact the pertinent international conventions domestically (Note: Later, during a July 22 telephone conversation with EMBOFF, Narain

stressed that it would be preferable that GOM amends the law rather than resort to regulations in order avoid creating a precedent regarding Court jurisdictions. End Note.).

LOGISTICAL CONCERNS

¶6. After the legal framework was discussed, Narain raised GOM logistical concerns involved with prosecuting and detaining alleged pirates. As a lawyer, Narain was extremely concerned that any naval vessels that helped detain suspected pirates would also agree to cooperate and provide evidence in trials against them. Shepherd assured Narain that this type of cooperation is common and is reaffirmed through protocols in bilateral MOU's (NOTE: USDEL and the French representative did not add any comment about US or ATALANTA forces as Shepherd's comments seemed to answer GOM concerns. END NOTE.).

¶7. Another concern raised was detention costs. Following a question raised by Narain regarding assistance to help detain pirates, Katharine Shepherd cited UNODC assistance to the Government of Kenya to fortify prisons. Similarly Shepherd mentioned the assistance the UK and other international partners may provide to the Government of Seychelles to upgrade its prison facilities.

¶8. Narain also raised the issue of possible terrorism links and piracy activities, which both CDA and Shepherd clarified. . The Charge said, in no uncertain terms, that piracy and terrorism are two separate issues that would be best to not conflate when there is no hard evidence that link the two activities to date. CDA further noted that Mauritius' Terrorism Act is a comprehensive and separate law to try acts of terrorism, to which Narain agreed.

ATALANTA FORCE TO CONDUCT RISK ASSESSMENT EXERCISE

¶9. The representative of the French Embassy, Mr. Jean Blattes, announced that following a meeting held in June in Saint Denis, La Reunion Island, in presence of Ambassador Chantal Poiret, (Note: Amb. Poiret is in charge of coordinating activities against maritime piracy. End Note.), ATALANTA forces will explore the idea of extending its coverage zone to include Mauritius by conducting a "risk assessment exercise." Blattes did not give a timeline for

this exercise but did emphasize that it would be a collaborative effort between GOM and ATALANTA Forces.

COMMENT

¶10. While it was established that this was an informal "exploratory" meeting, the presence of various GOM stakeholders and the dialogue among attendees indicates that combating piracy is garnering political will in GOM. Fong-Weng Poorun seemed keen to continue these exploratory talks and mentioned that GOM needs to increase its efforts against piracy. Post, the first mission to engage GOM on piracy, believes that a concerted effort with like-minded missions, private sector, and GOM partners like the Attorney General is needed to keep the pressure on GOM to increase its anti-piracy efforts.

BASHOR